

AGREED BOARD ORDER

LOUISVILLE METRO AIR POLLUTION CONTROL DISTRICT

This Order is issued by the Louisville Metro Air Pollution Control Board (the Board) pursuant to Kentucky Revised Statutes Chapter 77, Air Pollution Control.

RESPONSIBLE PARTIES: 800 Condominiums, LLC, owner and operator
800 Consultants, Inc., operator
American Invsco Development Corporation, operator

POLLUTANTS: Regulated asbestos-containing material (RACM)

BACKGROUND AND DISCUSSION:

At all times pertinent to this Agreed Board Order, 800 Condominiums, LLC owned and operated and 800 Consultants, Inc., and American Invsco Development Corporation operated a residential apartment building known as The 800 Building located at 800 South Fourth Street, Louisville, Kentucky. On November 14, 2000, a complainant called the Louisville Metro Air Pollution Control District (the District), alleging that untrained workers were being directed to remove friable asbestos-containing floor tile from several apartments in The 800 Building. The District alleges that asbestos-containing floor tile was disturbed in and removed from several apartments by untrained workers and without prior notification to the District, and that the workers failed to adequately wet RACM during abatement, to contain RACM properly and otherwise prevent its emission outside the work site, and to properly dispose of RACM. The management of The 800 Building failed to cooperate in the District's investigation, but appeared to cease the unauthorized abatement activity after the District began its investigation.

REGULATIONS: The District alleges that 800 Condominiums, LLC, 800 Consultants, Inc., and American Invsco Development Corporation (the Responsible Parties) violated the following federal regulations, incorporated by reference in District regulation 5.04:

40 CFR 61.145(b)(1) – Failure to notify the District of intent to demolish or renovate

40 CFR 61.145(c)(3), (4) and (6) – Failure to adequately wet RACM and contain in leak-tight wrapping

40 CFR 61.145(c)(8) – Failure to have trained foreman/supervisor present

40 CFR 61.150(a), (b) and (d) – Failure to properly transport and dispose of RACM

To fully resolve the violations alleged above of District Regulation 5.04, the parties agree to this Order assessing a civil penalty of \$60,000 against the Responsible Parties.

On October 20, 2004, a public hearing was held before the Board on this proposed Agreed Board Order. Based upon the evidence presented at that hearing, the Board determined that the proposed resolution and requirements were reasonable under the circumstances.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Responsible Parties shall pay a civil penalty of \$60,000 to the Louisville Metro Air Pollution Control District as follows:

- \$15,000 on October 20, 2004, receipt of which is hereby acknowledged.
- The balance of \$45,000 shall be paid in three installments of \$15,000 each on January 20, 2005; April 20, 2005; and July 20, 2005.

2. The Responsible Parties have reviewed this Order and consent to all its requirements and terms. Further, the Responsible Parties agree to pay the cost of publishing legal notice of the public hearing.

3. In the event that it becomes necessary for the District to seek a court order to enforce this Order, the Responsible Parties agree to pay the filing fees and costs of such action.

4. This Order fully resolves the violations alleged in the Notice of Violation of June 12, 2003, District Incident No. 02382.

5. This Order does not constitute an admission by the Responsible Parties of the violations alleged in this Order.

Louisville Metro Air Pollution Control Board

800 Condominiums, LLC

Karen A. Cassidy, Chair

(print name and title)

800 Condominiums, LLC
800 Consultants, Inc.
American Invsco Development Corporation
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Louisville Metro Air Pollution Control District

800 Consultants, Inc.

Jesse Goldsmith, Engineering and
Enforcement Manager

(print name and title)

American Invsco Development Corporation

(print name and title)

Approved as to form and legality:
Irv Maze, Jefferson County Attorney

Wyatt Tarrant & Combs

Lauren Anderson
Assistant County Attorney

By: _____
Counsel to 800 Condominiums, LLC,
800 Consultants, Inc., and American Invsco
Development Corporation